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IP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,715	07/22/2003	Joseph Skiba	0133-1	8129
25901	7590	10/14/2004	EXAMINER	
ERNEST D BUFF & ASSOCIATES, LLC			LINDSEY, RODNEY M	
245 SOUTH ST			ART UNIT	PAPER NUMBER
MORRISTOWN, NJ 07960			3765	

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	10/625,715	SKIBA, JOSEPH
Examiner	Art Unit	
Rodney M. Lindsey	3765	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires ____ months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: ____.

3. Applicant's reply has overcome the following rejection(s): ____.
4. Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: ____.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: ____.

Claim(s) objected to: ____.

Claim(s) rejected: 1,3,5-9,11 and 12.

Claim(s) withdrawn from consideration: ____.

8. The drawing correction filed on ____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). ____.

10. Other: ____



Rodney M. Lindsey
Primary Examiner
Art Unit: 3765

Art Unit: 3765

1. Claims 1, 5, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent to Suzuki et al. in view of Schiebl et al. Note paragraph [0017] of the translation of Suzuki et al. and the helmet shell defined by “organic fiber” with inner and outer surfaces reinforced with a bonded net or mesh of long length fibers (unidirectional fiber sheets) detailed in paragraphs [0012] and [0013]. Suzuki et al. teaches that it is old and well known to form the shell of polycarbonate (see paragraph [0002]) and to provide a shock absorbing inner helmet 2,3 and attachment means 4 in the helmet system (see paragraph [0002]). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the shell of polycarbonate and to provide the system with an inner helmet and attachment means as claimed in view of such prior art teaching of Suzuki et al. to achieve the advantage of defining a racing sport helmet. With respect to claims 1 and 9 Suzuki et al. do not teach forming the net or mesh of para-aramid fibers as claimed. Schiebl et al. teach old the use of such fibers (KEVLAR), see column 3, lines 21-40. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Suzuki et al. such that the net or mesh or unidirectional fiber sheet is formed of KEVLAR in the manner of Schiebl et al. to achieve the advantage of lightweight and strength. With respect to claim 5 Suzuki et al. discloses a length of 5cm for the prior art. It would have been obvious to maintain the a length of at least 5cm in the invention of Suzuki et al. since one of ordinary skill in the art at the time of the invention would readily have recognized the goal of Suzuki et al. of employing long length fibers greater than that of the prior art. With respect to claim 6 note the teaching of the use of Styrofoam by Suzuki et al. (see paragraph [0002]). With respect to claim 8 note the strap 4 as taught by Suzuki et al. With respect to claim 11 note the teaching of the use of polycarbonate in Suzuki et al. (see paragraph

[0002]). With respect to claim 12 note such teaching in paragraph [0009] of the translation.

With respect to claim 9 product-by-process claim 9 even though reciting features in terms of how they are made, e.g. injection molding and molding, is still a product claim, and it is the patentability of the product, not the process steps, which must be determined. Suzuki et al. teach the shell of “organic fiber” regardless of how it is formed and teach the mesh or net of the helmet system regardless of how formed with the shell. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the shell of polycarbonate an “organic fiber” in view of such prior art teaching of Suzuki et al. (see paragraph [0002]) to achieve the expedience of using a readily available helmet material known for withstanding an impact thereto.

2. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. in view of Schiebl et al. as applied to claim 1 above, and further in view of Halstead et al. Suzuki et al. do not teach either the helmet shell thickness or inner helmet thickness as claimed. Halstead et al. teach old a shell thickness in the range of 1/16 to 1/4 inch (see column 1, line 67) and an inner helmet thickness in the range of 0.5 to 1 inch (see column 4, lines 8-24). It would have been obvious to provide the shell and inner helmet of Suzuki et al. with the respective thickness of the shell and inner helmet of Halstead et al. since one of ordinary skill in the art at the time of the invention would readily have recognized such thickness as adequate starting points for producing a functional helmet system.